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July 31, 2014

Isabelle Falque-Pierrotin  
Chair, Article 29 Working Party

Dear Ms Falque-Pierrotin,

Thank you for inviting Google representatives to the meeting organized on July 24 by the Article 29 Working Party with three US-based search engines to discuss the challenges of implementing the European Court of Justice's recent decision in the *Costeja* case. Please find below the responses to the questionnaire that you sent to us. In the interest of transparency, we will follow your lead and make our responses public. With regard to questions 1 - 6 we provide you with a summary of our responses as these were also addressed in the above mentioned meeting.

By way of introduction, please allow us to make a few general observations. Google has moved quickly to comply with the Court's ruling. The CJEU's decision was issued on May 13th, and by May 30th, we were able to launch the webform for processing removals. Our approach will not be static. We know it will change over time as data protection authorities and courts issue guidance and as we all learn through experience.

We also know some tough debates lie ahead. We think it is important to have those debates openly and respectfully. We look forward to working with the Article 29 Working Party, as we confront the many difficult challenges posed by the *Costeja* decision.

Respectfully submitted,

Peter Fleischer  
Global Privacy Counsel

**Questionnaire addressed to Search Engines by the Article 29 Working Party regarding the implementation of the CJEU judgment on the “right to be forgotten”**

**1. What information do you request from a data subject prior to considering a delisting request e.g. URLs, justification? Do you ask further motivation from the data subjects to substantiate their request?**

The information necessary for Google to process a removal is entered in the webform Google provides for these kinds of requests (example for UK: [https://support.google.com/legal/contact/lr\\_eudpa?product=websearch&hl=en-GB](https://support.google.com/legal/contact/lr_eudpa?product=websearch&hl=en-GB)). The webform asks for the following information:

- Country whose law applies to the request
  - This requires the requester to make a choice among the laws of the EU and EFTA Member States.
- Personal information:
  - Name used to search — This should be the name that, when used as a search query, produces a list of results for which the person is requesting that a result (or results) be removed.
  - Full name of requester — The individual’s own name, or the name of the individual for which a request is submitted.
  - If the person completing the form is sending a request for someone else, they must have the legal authority to act on their behalf and specify the relationship to that person (e.g., “parent” or “attorney”).
  - Contact email address — We use this address to provide the requester information about the status of the request.
- Information about the specific search results the requester wants removed from the list of results produced when searching for the name:
  - Identification of each result in the list of results that the requester wants removed by providing the URL for the web page that the result links to. The URL can be taken from the browser bar after clicking on the search result in question.
  - For requests related to image search, the requester also needs to specify the term(s) used to conduct the search.
  - An explanation, for each URL, as to how the linked web page is related to the requester or the person represented by him/her.

- An explanation, for each URL, as to how the inclusion of this URL as a search result is irrelevant, outdated, or otherwise objectionable.
- A legible copy of a document that verifies his/her identity (or the identity of the person whom they are authorised to represent). A passport or other government-issued ID is not required. Requesters may obscure parts of the documents (e.g., numbers) as long as the remaining information allows identification. Photographs may be obscured, unless the removal request is for pages that include photographs of the person.

To conclude the submission, the requester needs to:

- check a box confirming the following statement: “I represent that the information in this request is accurate and that I am the person affected by the web pages identified, or I am authorised by the person affected to submit this request.”
- type his/her full name in a textbox thereby representing that the statements made by him/her in the webform above are true, that he/she is requesting the removal of the search results identified by the URLs he/she has listed above, and that, if he/she is acting on behalf of another persons, he/she has the legal authority to do so.
- specify the date for the “Signed on this date of” field.

**2. Do you filter out some requests based on the location, nationality, or place of residence of the data subject? If so, what is the legal basis for excluding such requests?**

Our webform makes it clear that a requester must select a relevant country. The data subject will need some connection to that country, which will normally, but not always, mean that he or she is a resident in it. A requester needs to select a country so that we know which law to apply. We do not read the decision by the Court of Justice of the European Union (“CJEU”) in the case C-131/12 (the “Decision”) as global in reach—it was an application of European law that applies to services offered to Europeans.

**3. Do you delist results displayed following a search:**

- a. **Only on EU / EEA domains?**
- b. **On all domains pages accessible from the EU / EEA or by EU/EEA residents?**
- c. **On all domains on a global basis?**

We remove the identified links from search results in our European versions of our search services. Specifically, such links do not appear in search results for queries on the data subject’s name (alone or in combination with other query terms) in our search services targeted to EU and EFTA countries.

National versions of our search service are offered from the relevant ccTLD (country code top level domains) for each country, like google.fr for France and google.it for Italy. We have developed different versions of our search service to meet local user preferences in almost every country. We actively redirect European users from google.com to the appropriate

ccTLD, and European users overwhelmingly use those services. Fewer than 5% of European users use google.com, and we think travelers are a significant portion of those.

It is our long-established practice to comply with national law by processing removals from search results for the version of search on the national ccTLD. We regularly remove results from country-specific versions of search in this manner, typically based on notice through our user-facing webforms informing us of potential violations under national law. For example, users in Germany may alert us to pages featuring extremist content that violates German law, which we would remove from the google.de search results.

In its decision, the CJEU presented a legal interpretation affecting multiple countries simultaneously. We heard some DPAs and others call for consistency across states in implementing it, and we have therefore decided to respect that effort by extending each removal to all EU/EFTA ccTLDs.

**4. What criteria do you use to balance your economic interest and/or the interest of the general public in having access to that information versus the right of the data subject to have search results delisted?**

The core service of a search engine is to help users find the information they seek, and thus it is in a search engine's general economic interest to provide the fastest, most comprehensive, and most relevant search results possible. Beyond that abstract consideration, however, our economic interest does not have a practical or direct impact on the balancing of rights and interests when we consider a particular removal request.

We must balance the privacy rights of the individual with interests that speak in favour of the accessibility of information including the public's interest to access to information, as well as the webmaster's right to distribute information. When evaluating requests, we will look at whether the search results in question include outdated or irrelevant information about the data subject, as well as whether there's a public interest in the information.

In reviewing a particular removal request, we will consider a number of specific criteria. These include the individual (for example, whether an individual is a public figure), the publisher of the information (for example, whether the link requested to be removed points to material published by a reputable news source or government website), and the nature of the information available via the link (for example, if it is political speech, if it was published by the data subject him- or herself, or if the information pertains to the data subject's profession or a criminal conviction).

Each criterion has its own potential complications and challenges. It might be helpful to give a few specific examples:

- It is deemed to be legitimate by some EU Member that their courts publish rulings that include the full names of the parties, while courts in other Member States anonymise their rulings before publication.
- The Internet has lowered the barrier to entry for citizen journalists, making it more difficult to precisely define a reputable news source online than in print or broadcast media.

- It can be difficult to draw the line between significant political speech and simple political activity, e.g. in a case where a person requests removal of photos of him- or herself picketing at a rally for a politically unpopular cause.

We welcome the input of the Working Party both in identifying further areas where the balance of interests is particularly challenging, and in providing guidance on how to resolve those challenges in a just and consistent way.

## **5. What explanations / grounds do you provide to data subjects to justify a refusal to delist certain URLs?**

We currently send three types of response:

**Removal.** If the request satisfies the criteria for removal, the requesters will receive a response letting them know that the URL will be removed from results.

**Rejection.** If we have decided **not** to remove, the requester will receive notice to this effect along with the reason (e.g., political speech, public interest) for why a specific URL will not be removed. We also inform the requester of the possibility to bring the matter before the competent data protection authority.

**More information.** There may be some cases where we need more information to make a decision. In those cases we will send a notice requesting such information.

## **6. Do you notify website publishers of delisting? In that case, which legal basis do you have to notify website publishers?**

We provide a service called Webmaster Tools that requires the webmaster of a given domain to register and validate control of the site.

For many years, we have provided information to webmasters who signed up for Webmaster Tools about URLs from their site that were removed from search results for legal reasons, such as alleged copyright infringement. This information is provided through a dashboard on the Webmaster Tools product, or webmasters can choose to get it by email. We are doing the same for these removals. Unlike copyright removals, our dashboard will display *only* the URLs removed based on requests under data protection laws, but no further details about the request.

As we are not sharing any personal data with the webmaster, we do not think that this notice requires a justification under data protection law. We are simply notifying the webmaster about a partial removal of search results for a specific URL on his/her domain. Any personal data that can be found at the specific URL is not part of the data that is processed by Google in the information shared with the webmaster. To the contrary, such data is already in his/her possession and in many cases was authored by him/her or posted online as part of his/her business.

Even if, hypothetically, the notices contained personal data, sending these notices would be justified under Art. 7 (c) and (f) of Directive 95/46/EC since the webmaster is in many cases a source of relevant information to enable Google to meet its legal obligation to duly examine the merits of the requests. And the webmaster affected by a removal has a legitimate interest pursuant to Art. 7 (f) in receiving these notices.

It should also be noted that Art. 17 para 2 of the draft General Data Protection Regulation foresees that a controller of published personal data informs third parties who are processing that same data about a data subject's removal request.

We think that it is important to let third party publishers know when we stop linking to their sites. We have already started receiving complaints from webmasters about the removal of links to their sites, and we already face challenges from publishers about removal decisions that result in reduced traffic to their sites. The notice to webmasters both ensures transparency and makes corrections possible when a removal proves to be a mistake. We have received information from webmasters that has caused us to reevaluate removals and reinstate search results. Such feedback from webmasters enables us to conduct a more balanced weighing of rights, thereby improving our decision-making process and the outcome for search users and webmasters.

In some cases, webmasters can identify when a request that takes traffic away from their site was actually mistaken or inaccurate. Historically, we have seen see many cases of business competitors trying to abuse removals processes to reduce each others' web presence, so this corrective is important. Abuse of such processes is a well-documented phenomenon -- one academic study based on Google's published information about copyright-based removals estimated that over 50% of removal requests originated with competitors targeting each others' sites for removal from search results.

([http://mylaw.usc.edu/documents/512Rep-ExecSum\\_out.pdf](http://mylaw.usc.edu/documents/512Rep-ExecSum_out.pdf)).

In other cases such notices may have the effect that the third party publisher stops publishing the underlying content.

We note that the webform provides notice to the requesters that webmasters will be informed about the URLs that have been removed from our search results.

**7. Do you provide proper information about the delisting process on an easily accessible webpage? Have you developed a help center explaining how to submit a delisting claim?**

Our webform is available in 25 languages at [https://support.google.com/legal/contact/lr\\_eudpa?product=websearch](https://support.google.com/legal/contact/lr_eudpa?product=websearch) (for web search) and [https://support.google.com/legal/contact/lr\\_eudpa?product=imagesearch](https://support.google.com/legal/contact/lr_eudpa?product=imagesearch) (for image search). Users can navigate to these pages through in a number of ways including the troubleshooter page at <https://support.google.com/legal/>. These URLs have been widely publicised since we launched our webform.

The webform itself contains detailed instructions on how to submit a request and we update these instructions as necessary when we learn that users have difficulties with the submission process.

We provide additional information in our Privacy & Terms FAQ at <https://www.google.com/intl/en/policies/faq/> in all relevant languages.

**8. Can data subjects request delisting only using the electronic form that you provide, or can other means be used?**

The webform is the best way to ensure that we receive all required information to process a request. In particular, the webform ensures that we receive the URLs at issue in a digital format, which largely eliminates the problem of inaccurate transpositions of URL-strings from analogue written submissions such as letters or fax to a digital format. Using the webform also ensures that we handle the requests in the most efficient manner to the benefit of all requesters.

We are not providing an alternative process for submitting a removal request but we have received requests in writing by fax, letter and email. We generally refer these requests to the webform. However, if a requester insists on not using the webform, we will nevertheless process his/her request. We note that a requester will have to access the internet in order to identify the URL for which he or she requests a removal.

**9. Can data subjects request delisting in their own language?**

Yes, the webform and accompanying information pages mentioned in our response to question 7 are available in all relevant languages.

**10. If you filter out some requests based on the location, nationality, or place of residence, what kind of information must be provided by the data subject in order to prove his nationality and / or place of residence?**

Our webform makes it clear that individuals need to select a relevant country. Practically, individuals will need some connection to that country, which will normally, but not always, mean that they are resident in it. Individuals need to select a country so that we know which country's law to apply.

We are not automating decisions about these removals. We have to weigh each request individually on its merits, and that is done by people. We have many people working full time on the process, and ensuring enough resources are available for the processing of requests required a significant hiring effort.

**11. Do you ask for a proof of identify or some other form of authentication and if yes, what kind? For what reason? What safeguards do you put in place to protect any personal data that you process for the purpose of processing delisting requests?**

Abuse of processes of this kind is a well-documented phenomenon which we often see in other kinds of removal requests, and which we must also expect for these. We therefore ask requesters, as mentioned above, to provide a legible copy of a document that verifies the requester's identity (or the identity of the person whom they are authorised to represent). A passport or other government-issued ID is not required. Requesters may obscure parts of the documents (e.g., numbers) as long as the remaining information allows identification. Photographs may be obscured, unless the removal request is for pages that include photographs of the person.

We use the identification documents that are submitted through the webform solely to help us determine the authenticity of the request and we generally delete the copy within a month of closing the removal request case.

The webform is made available via https, therefore data submitted through that form is encrypted in transit. Google also encrypts that data at rest and strictly limits access. Personnel are granted access rights to this information commensurate with job function and role, using the principles of least-privilege and need-to-know to match access privileges to defined responsibilities.

**12. Do you accept general claims for delisting (e.g. delist all search results linking to a news report)?**

We are seeking to give effect to the CJEU's ruling in case C-131/12. The court called for case-by-case analysis of requests for a removal of "results displayed following a search made on a person's name". Therefore a result such as a news report may not appear if one searches for the name of a person mentioned in that report, while a search for other terms mentioned in that report may still display a search result linking to that report (also see our response to question 13, below).

**13. When you decide to accept a delisting request, what information do you actually delist? Do you ever permanently delist hyperlinks in response to a removal request, as opposed to delisting?**

In the case of the removal requests at issue here, the CJEU makes it clear that a search result for which a data subject requests a removal may still be displayed for searches for terms other than the data subject's name. Accordingly, we remove search results in as far as they are displayed for a search with the person's name. This is important when, as often happens, valuable and lawful content happens to be on the same page as the challenged information about the data subject. For example, in the case leading to the CJEU's decision, the webpage at issue contains information not only about the data subject but also an unrelated article about assisted suicide. In that example, a search for "assisted suicide" should still bring up that page.



**14. Do you delist search results based only on the name of the data subject or also in combination of the name with another search term (i.e. Costeja and La Vanguardia)**

We remove search results in both cases mentioned in the question. Our technical implementation checks whether the name is in the query, and if it is, the URL will not appear in our results.

**15. How do you treat removal requests with regard to hyperlinks to pages that do not (no longer) contain the name of the data subject? [Examples: hyperlink to anonymised ruling, hyperlink to page where name of data subject was removed]. Do you immediately recrawl the sites after a removal request?**

In cases where the content of a webpage has been changed and our search results for that webpage do not yet reflect that change, we provide a mechanism whereby webmasters or users can request that we remove the cache copy for that page, so information from the outdated page does not appear in search results. When using our troubleshooter (see our response to question 7, above) users are guided to the correct form to file such a request.

Where requesters bring such outdated search results to our attention, we will also intervene to eliminate the outdated search results directly.

In cases where the requester has apparently provided an incorrect URL (e.g. the main domain of facebook.com) we generally reach out to the requester to ask for clarification.

**16. Does your company refuse requests when the data subject was the author of the information he/she posted himself/herself on the web? If so, what is the basis for refusing such requests?**

Each case must be assessed individually. However, if the data in question was made public by the data subject, this is a factor to be considered in favour of not removing a search result linking to such data. In some of these cases, we've received requests by people who agreed to publication of their material in a very formal way - for instance, some professional journalists have asked us to remove articles that they wrote for a publication to which they are no longer connected.

In cases where we do not remove such links, we advise the requester to use readily available tools to remove the content for themselves, or to block it from being indexed in search.

**17. Do you have any automated process defining if a request is accepted or refused?**

Our webform will automatically detect the omission of required information to assist the requester in completing his/her request.

The subsequent decisions about these removals is made by people. We are weighing each request individually on its merits. We have many people working full time on the process, and ensuring enough resources are available for the processing of requests required a significant hiring effort.

**18. What technical solution do you use to ensure that links to material to which a removal agreement applies are not shown in the search results?**

When queries are made that contain the search term for which a removal has been implemented, the detection of that search term triggers the exclusion of the affected URL from the search results in our European services.

**19. Which of your services do you consider delisting requests to be relevant to?**

Removals requested through our web form are carried out on our services that crawl and index third party websites: Web Search, Image Search, and Google News. Our troubleshooter mentioned in our response to question 7 guides users to the right process.

**20. Do you notify users through the search results' page information that some results have been removed according to EU law? In that case, which is the legal basis for this? What is the exact policy? In particular, it appears that this notice is sometimes displayed even in the absence of removal requests by data subjects. Can you confirm or exclude that this is actually the case and, if so, could you elaborate on the applicable criteria?**

Historically it has been our policy to let users know when search results have been modified based on legal requirements. User trust is important to us and we want to let them know when our results have been changed.

With regards to the CJEU decision, our current approach is to show a notification at the bottom of all search result pages for queries where a name-based removal has occurred as well as for all other search result pages that appear to be for the name of a person, indicating that results may have been removed. However, most name queries are for famous people - people search disproportionately for celebrities and other public figures. As such searches are very rarely affected by a removal, due to the role played by these persons in public life, we have made a pragmatic choice not to show this notice by default for known celebrities or public figures.

The notification is intended to alert users to the possibility that their results for this kind of query may have been affected by a removal, but not to publicly reveal which queries were actually affected. But we are still building out the serving technology for the notification so the notice may sometimes not appear where it should, and vice versa.

**21. Have you considered sharing delisted search results with other search engines providers?**

No, we have not considered this.

We would note that sharing the delisted URLs without further information about the request would not enable other search engine providers to make informed decisions about removals, but sharing this information along with details or a copy of the complaint itself would raise concerns about additional disclosure and data processing.

## **22. What is the average time to process the requests?**

The CJEU's Decision was issued on May 13th, and by May 30th, we were able to launch the webform for processing removals. As our process becomes well-established, we will be able to devote resources to measuring average processing time. Our goal, of course, is for processing to be both speedy and thorough. It is too early to know what our average time will be, since we are working through a large backlog of requests. We fully anticipate that, once that backlog is cleared, we will achieve a steady state in which we are able to close out new requests much faster than we were able to handle the large set of initial requests.

## **23. What statistics can you share at this stage (percentage of requests accepted / partially accepted / refused)? How many have you answered in total? How many per day?**

As of 18th July, we have received more than 91,000 removal requests involving more than 328,000 URLs. The breakdown by country (for the 6 largest countries in terms of requests) was as follows:

- Around 17,500 requests have been made under French law (as chosen by the requester in the webform), involving around 58,000 URLs.
- Around 16,500 requests have been made under German law, involving around 57,000 URLs.
- Around 12,000 requests have been made under UK law, involving around 44,000 URLs.
- Around 8,000 requests have been made under Spanish law, involving around 27,000 URLs.
- Around 7,500 requests have been made under Italian law, involving around 28,000 URLs.
- Around 5,5000 requests have been made under Dutch law, involving around 21,000 URLs.

For all requests we see the following trends in processing results: Removal of around 53% of URLs for which a removal was requested. More information required from requesters for around 15% of URLs for which a removal was requested. Non-removal of 32% of URLs for which a removal was requested. These figures are indicative only, and we expect them to change (perhaps significantly) over time. Our teams are focused on the actual processing of

requests, but we are aiming to solidify the way we compile statistics for these requests going forward.

**24. Will you create a database of all removal requests or removal agreements?**

In the case of these removals the name query as well as the affected URL needs to be stored as long as the removal stays in effect in order to uphold the removal (i.e. the non-display of a specific search result upon search for a name).

**25. What particular problems have you faced when implementing the Court's ruling? Are there particular categories of requests that pose specific problems?**

We have identified some challenges in evaluating the requests in our response to question 4, above. In many cases, we lack the larger factual context for a request, without which it is difficult to balance the competing interests.

We generally have to rely on the requester for information, without assurance beyond the requester's own assertions as to its accuracy. Some requests turn out to have been made with false and inaccurate information. Even if requesters provide us with accurate information, they understandably may avoid presenting facts that are not in their favour. As such, we may not become aware of relevant context that would speak in favour of preserving the accessibility of a search result. An example would be a request to remove an old article about a person being convicted of a number of crimes in their teenage years, which omits that the old article has its relevance renewed due to a recent article about that person being convicted for similar crimes as an adult. Or a requester may not disclose a role they play in public life, for which their previous reported activities or political positions are highly relevant. We have also seen examples of data subjects who indiscriminately submit many URLs that are displayed as search results for their name, even though some URLs are actually about another person with the same name.

The examples above illustrate the difficulties a search engine provider faces in attempting to effectively strike a fair balance interests regarding information published by a third party.

Google has formed an external [Advisory Council on the Right to be Forgotten](#), which we hope will advise us on principles, policies and processes Google should follow to balance an individual's right to privacy with the public's right to information under the existing Decision. We also hope the Council will contribute to the evolving debate about the appropriate solutions for addressing knowing and forgetting in the Information Age.

The Council is interested to hear from experts across various member states of the European Union to inform their thinking on these issues. The joint work of data protection authorities in the Article 29 Working Party on this issue is of course highly relevant. To further its understanding of the issues raised by the Decision, the Council is currently seeking input on these topics among others that may arise:

- Are there any procedural issues raised by the case (e.g., responsibilities of search engines, data protection authorities, publishers, individuals)?

- What is the nature and delineation of a public figure's right to privacy?
- How should we differentiate content that is in the public interest from content that is not?
- Does the public have a right to information about the nature, volume, and outcome of removal requests made to search engines?
- What is the public's right to information when it comes to reviews of professional or consumer services? Or criminal histories?
- Should individuals be able to request removal of links to information published by a government?
- Do publishers of content have a right to information about requests to remove it from search?

**26. Could you please provide us with contact details in case we need to exchange on a specific case?**

We are working on setting up processes for receiving correspondence by DPAs in this context. We will share details with you as soon as these are ready, and we remain open to your feedback as to how you propose these processes should work.

[END OF SUBMISSION]